

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 1999-599

May 14, 2001

ALTERNATE POWER SOURCE, INC.
Application for License to Operate as a
Competitive Electricity Provider

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

On October 25, 1999 in this proceeding, this Commission granted a license to Alternate Power Source, Inc. (APS) to operate as a competitive electricity provider (CEP) in Maine, pursuant to Chapter 305 of the Commission's Rules.¹ In its application for the license, APS documented its technical capability to meet the NEPOOL transaction provisions as required by Chapter 305. That Rule requires CEPs (other than aggregators and brokers) to demonstrate "technical ability to secure generation or otherwise obtain and deliver electricity through compliance with all applicable requirements of NEPOOL and ISO-NE." Chapter 305 further requires each applicant (again other than aggregators and brokers) to "document that it is a NEPOOL participant or will meet its transactions requirements through a contractual arrangement with a NEPOOL participant." MPUC Rules, ch. 305, § 2(B)(2).

On April 20, 2001, the Federal Energy Regulatory Commission (FERC) issued an Order Accepting Filing Providing for Termination and Granting Waiver (95 FERC ¶ 61,092) that effectively terminated the NEPOOL membership of APS on March 8, 2001. As a result of the FERC action, APS no longer maintains the technical capability required of CEPs other than aggregators and brokers by Chapter 305.

On April 30, 2001, the Commission Staff sent a letter to APS that advised that the Commission would consider "suspending APS's license until APS can demonstrate its technical capability in the NEPOOL / ISO-NE control area as required by Section 2(B)(2)(b) of Chapter 305." The Staff advised that such a suspension "would continue in force until APS makes the technical capability demonstration required by Chapter 305, or until APS advises that it wishes to abandon its license as provided by Section 2(C)(11) of Chapter 305." That letter asked APS for a prompt response.

On May 7, 2001, APS reported that "in a few weeks" it intends to cure its payment default under the Restated NEPOOL Agreement that led to termination of its NEPOOL membership by FERC. APS's demonstration of such a cure would likely be able to demonstrate the technical capability required by Chapter 305 for CEPs selling electricity at retail in Maine.

¹ On April 13, 2000, we amended APS's license to reflect a recent statutory change, authorizing APS to offer retail service to all consumers in Maine other than residential and small commercial consumers.

On May 9, 2001, APS advised that it currently provides broker and aggregator services in Massachusetts, and that it plans to maintain that arrangement until it can cure its NEPOOL membership issues. APS stated it did not yet have any customers in Maine but wishes to develop its Maine market, and asked to “maintain our license in this limited role” until it can renew its NEPOOL membership. We find APS’s request to restrict its license reasonable.

Accordingly, we

ORDER

1. That pursuant to Chapter 305, the license granted to Alternate Power Source, Inc. in this proceeding on October 25, 1999, as amended on April 13, 2000, is restricted to authorize Alternate Power Source, Inc. to provide only aggregator and broker services in Maine, effective immediately and until further action by this Commission; and

2. That the Administrative Director send a copy of this Order to Alternate Power Source, Inc., and to all Transmission and Distribution utilities participating in electric restructuring in Maine.

Dated at Augusta, Maine, this 14th day of May, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
 Diamond

COMMISSIONER ABSENT: Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.